

interests of strangers, or to defeat the rights of *bona fide* purchasers for a valuable consideration; because, as to strangers, a private act is considered only in the light of a private conveyance; (w) as where an act gave the lands of Priory's alien to the king, it was held, that it did not extinguish an annuity of a Prior, which he had out of a rectory; although there was not any saving in the act; and so too, where a statute makes a conveyance good against the king, or any certain person, it is not allowed to take away the rights of any others although there be not any saving in the act. (x) But where there is an estate in remainder, which the party may bar by a fine and common recovery, in such case, the claimant of such outstanding estate may be bound by a private act of parliament, although not named in it; because the legislative enactment is only another form of effecting that which might have been done by an ordinary course of judicial proceeding. (y)

In a case however, where a private act of parliament was passed authorizing the sale of a real estate, during the infancy of the heir, to pay debts, which directed, that the mortgage should be *first* paid; and it afterwards appeared, that there were judgments by which the estate was bound *prior* to the mortgage; it was nevertheless held, that the act must be obeyed, and the mortgage *first* paid. But it seemed to be admitted, that, by virtue of the general saving in the act, the judgment creditors might make use of their incumbrances as they could at law. This determination appears to have been pronounced with some hesitation and reluctance. (z) The parliament, by thus arbitrarily altering the rights of the parties, and ordering the mortgage to be *first* paid to the prejudice of *prior* judgment creditors, exerted a kind of supreme power, which it has been declared, should never be exercised upon any occasion, and was too dangerous to be entrusted even to that body. (a) No court of justice, of England, has ever ventured to assume such a power, in any form; for as it has been said, men's deeds and wills, by

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v. Lee, 2 Saund. 96, a.; Boulton v. Bull, 2 H. Blac. 499; Perchard v. Heywood, 8 T. R. 472; Wallwyn v. Lee, 9 Ves. 25; Bullock v. Fladgate, 1 Ves. & Bec. 471; Vauxhall Bridge Company v. Earl Spencer, 2 Mad. Rep. 355; S. C. 4 Cond. Chan. Rep. 28; Edwards v. The Grand Junction Railway Company, 10 Cond. Chan. Rep. 85; Moore v. Usher, 10 Cond. Chan. Rep. 107; 2 Blac. Com. 344; 5 Cruise Dig. tit. 33.—(w) Pomfret v. Windsor, 2 Ves. 490.—(x) Sir Francis Barrington's case, 8 Co. 271; Provost of Eton v. Bishop of Winton, 3 Wils. 496; Townley v. Gibson, 2 T. R. 705; Riddell v. White, Anstr. 281; Dwarries' Statutes, 635; 5 Cruise Dig. tit. 33.—(y) Westby v. Kiernan, Amb. 697.—(z) Ward v. Cecil, 2 Vern, 711.—(a) Kames' Pri. Eg. b. 1, p. 1, s. 4.